



DAC 12/11

## PATENT APPLICATION

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5/12/2005

Date

Gary E. Parker

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Teresa Gilbert et al.  
Serial No. : 09/876,813  
Filed : June 6, 2001  
For : GROWTH FACTOR HOMOLOG ZVEGF4

Examiner : Chernyshev, Olga N.  
Art Unit : 1646  
Confirmation No: 9714  
Docket No. : 99-19D1  
Date : May 12, 2005

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application for Patent Term Adjustment Correction

Sir:

Applicants are in receipt of the Determination of Patent Term Adjustment mailed by the Office on February 16, 2005 and hereby request a correction of the Patent Term Adjustment.

The Adjustment to date as indicated by the Office is 377 days. This calculation has been based on the difference between a delay in action on behalf of the Office of 419 days and a delay in action on behalf of the Applicants of 42 days. The calculation on behalf of the Office is believed to be in error. Applicants submit that the correct delay on behalf of the Office is 461 days, resulting in a Patent Term Adjustment of 419 days.

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**Statement of Facts – 37 C.F.R. § 1.705(b)(2)****(i) Correct Patent Term Adjustment and Basis**

Applicants respectfully submit that the correct patent term adjustment is 419 days, based on Office delays of 461 days under 37 C.F.R. §§ 1.702(a) and (b).

**(ii) Relevant Dates**

The application was filed on June 6, 2001 under 35 U.S.C. § 111(a). The first action under 35 U.S.C. § 132 was mailed September 29, 2003, resulting in a period of delay under Rule 703(a)(1) of 419 days.

Applicants' reply to the § 132 action of September 29, 2003 was received by the Office November 3, 2003. (Although this response was subsequently found to be non-compliant, it was a *bona fide* attempt to be a reply as acknowledged by the Office in the Notice of Non-Compliant Amendment mailed November 20, 2003. The response of November 3, 2003 was thus a reply under 37 C.F.R. § 1.111. See, 37 C.F.R. § 1.111(b).) The next action under 35 U.S.C. § 132 was mailed by the Office April 14, 2004, resulting in a period of delay under Rule 703(a)(2) of 42 days.

If the patent issues on the Tuesday before the date that is 28 weeks from the February 16, 2005 mailing date of the Determination of Patent Term Adjustment, the period of delay under Rule 703(b) will be 450 days.

Based on the dates specified above, the total delay by the Office is 911 days, including 450 overlapping days. The adjustment under Rule 703(f) is therefore 461 days.

**(iii) Terminal Disclaimer**

This application is not subject to a terminal disclaimer.

**(iv) Circumstances**

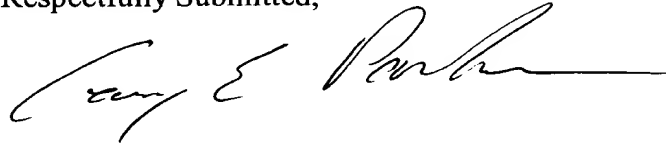
Applicants filed a reply having an omission on November 3, 2003 and a reply correcting the omission on December 15, 2003, resulting in a reduction under Rule 704(c)(7) of 42 days.

**Conclusion**

The correct patent term adjustment should be 419 days, which is the difference between the sum of periods calculated under 37 C.F.R. § 1.703 (461 days) and the sum of periods calculated under 37 C.F.R. § 1.704 (42 days).

The Commissioner is hereby authorized to charge the fee under 37 C.F.R. §1.18(e), estimated to be \$200.00, to ZymoGenetics, Inc. Deposit Account No. 26-0290.

Respectfully Submitted,

A handwritten signature in dark ink, appearing to read "Gary E. Parker", written in a cursive style.

Gary E. Parker  
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Enclosures:

Postcard

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